

AMENDED IN SENATE APRIL 14, 2005

SENATE BILL

No. 953

Introduced by Senator Romero

February 22, 2005

~~An act to amend Section 299 of the Penal Code, relating to crimes.~~
An act to amend Section 44017.4 of the Health and Safety Code, and to amend Sections 4152.5, 4153, 4451, and 4750.1 of, and to add Sections 511 and 1680 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 953, as amended, Romero. ~~DNA: data bank.~~ *Vehicles: registration: amnesty: replica vehicles.*

(1) Existing law authorizes a vehicle to be registered with the Department of Motor Vehicles as a specially constructed vehicle or remanufactured vehicle under certain circumstances.

This bill would establish a registration amnesty program for specially constructed vehicles, and replica vehicles, as defined in the bill, that have been previously registered or classified incorrectly. The bill would require participants in the program to file a completed amnesty application, signed under penalty of perjury. By requiring the application to be signed under penalty of perjury, the bill would expand the scope of the crime of perjury and thereby would impose a state-mandated local program.

(2) Existing law requires a person to follow certain procedures when registering a vehicle last registered in a foreign jurisdiction or a specially constructed or remanufactured vehicle.

This bill would require the department, when registering the specified vehicles and replica vehicles, to make an initial inspection of the vehicle to determine its identity, and would authorize the

department to refer the vehicle to the Department of the California Highway Patrol for an additional inspection.

(3) Existing law requires that a specially constructed vehicle, upon registration with the department, be inspected by stations authorized to perform referee functions, for the purposes of determining the engine model-year used in the vehicle or the vehicle model-year, and the emission control system application.

This bill would require that a replica vehicle, upon registration with the department, be inspected by stations authorized to perform referee functions, for the purposes of determining the engine model-year used in the vehicle or the vehicle model-year, and the emission control system application.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law provides that a person whose DNA profile has been included in the data bank under specified provisions shall, under specified conditions, be able to have his or her DNA specimen and sample destroyed and searchable database profile expunged from the data bank program.~~

~~This bill would make technical, nonsubstantive changes to this provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 299 of the Penal Code is amended to~~
2 ~~read:~~
3 ~~SECTION 1. Section 44017.4 of the Health and Safety Code~~
4 ~~is amended to read:~~
5 44017.4. (a) Upon registration with the Department of Motor
6 Vehicles, a passenger vehicle or pickup truck that is a *replica*
7 *vehicle, as defined in Section 511 of the Vehicle Code, or a*
8 *specially constructed vehicle, as defined in Section 580 of the*
9 *Vehicle Code, shall be inspected by stations authorized to*
10 perform referee functions. This inspection shall be for the

1 purposes of determining the engine model-year used in the
2 vehicle or the vehicle model-year, and the emission control
3 system application. The owner shall have the option to choose
4 whether the inspection is based on the engine model-year used in
5 the vehicle or the vehicle model-year.

6 (1) In determining the engine model-year, the referee shall
7 compare the engine to engines of the era that the engine most
8 closely resembles. The referee shall assign the 1960 model-year
9 to the engine in any specially constructed *or replica* vehicle that
10 does not sufficiently resemble a previously manufactured engine.
11 The referee shall require only those emission control systems that
12 are applicable to the established engine model-year and that the
13 engine reasonably accommodates in its present form.

14 (2) In determining the vehicle model-year, the referee shall
15 compare the vehicle to vehicles of the era that the vehicle most
16 closely resembles. The referee shall assign the 1960 model-year
17 to any specially constructed *or replica* vehicle that does not
18 sufficiently resemble a previously manufactured vehicle. The
19 referee shall require only those emission control systems that are
20 applicable to the established model-year and that the vehicle
21 reasonably accommodates in its present form.

22 (b) Upon the completion of the inspection, the referee shall
23 affix a tamper-resistant label to the vehicle and issue a certificate
24 that establishes the engine model-year or the vehicle model-year,
25 and the emission control system application.

26 (c) The Department of Motor Vehicles shall annually provide
27 a registration to no more than the first 500 vehicles that meet the
28 criteria described in subdivision (a) that are presented to that
29 department for registration pursuant to this section. The
30 500-vehicle annual limitation does not apply to the renewal of
31 registration of a vehicle registered pursuant to this section.

32 *SEC. 2. Section 511 is added to the Vehicle Code, to read:*

33 *511. A "replica vehicle" is a motor vehicle that is assembled*
34 *from a kit, or from new or used component parts, or from a*
35 *combination of new and used component parts, to resemble a*
36 *pre-existing motor vehicle that was originally manufactured*
37 *under a distinctive make, type, and model-year, and is built for*
38 *private use and not for retail sale.*

39 *SEC. 3. Section 1680 is added to the Vehicle Code, to read:*

1 1680. (a) (1) *It is the intent of the Legislature, in enacting*
2 *this section, to provide a registration amnesty program for*
3 *specially constructed or replica vehicles, to improve compliance*
4 *with state vehicle registration laws and vehicle emission laws,*
5 *and to accelerate and increase collections of certain currently*
6 *owed state fees and taxes.*

7 (2) *The Legislature finds and declares that a public purpose is*
8 *served by the waiver of criminal prosecution in return for the*
9 *immediate reporting and payment of previously underreported,*
10 *nonreported, or unpaid vehicle registration fees.*

11 (3) *The benefits to be gained by this program include, among*
12 *other things, accelerated receipt of certain currently owed fees*
13 *and taxes, permanently bringing into the vehicle registration*
14 *system vehicles that have previously been misidentified to avoid*
15 *appropriate state taxes and fees and compliance with state*
16 *emission requirements, and providing an opportunity for vehicle*
17 *owners to correct their vehicle's registration and satisfy tax and*
18 *fee obligations before stepped-up vehicle registration*
19 *enforcement programs take effect in January 2006.*

20 (4) *It is further the intent of the Legislature in enacting this*
21 *section that the specially constructed or replica vehicle*
22 *registration amnesty program be a one-time occurrence that*
23 *should not be repeated in the future, because any expectations of*
24 *future amnesty programs could have a counterproductive effect*
25 *on compliance today.*

26 (b) *The department shall develop and administer a vehicle*
27 *registration amnesty program for vehicles classified as specially*
28 *constructed or replica vehicles that have been previously*
29 *registered or classified incorrectly.*

30 (1) *The department shall collect all fees and penalties owed*
31 *for the underreporting of vehicle value and the nonpayment of*
32 *any taxes or fees previously determined or proposed to be*
33 *determined for vehicles classified as specially constructed or*
34 *replica vehicles that have been previously registered or classified*
35 *incorrectly.*

36 (2) *Except as provided in subdivision (b), no criminal action*
37 *shall be brought against the current owner of a vehicle classified*
38 *as a specially constructed or replica vehicles that has been*
39 *previously registered or classified incorrectly, for false*

1 *statements relating to the vehicle registration for which amnesty*
2 *is requested.*

3 *(c) This section does not apply to violations of Division 3*
4 *(commencing with Section 4000) for which, as of January 1,*
5 *2006, either of the following applies:*

6 *(1) The current vehicle owner is on notice of a criminal*
7 *investigation by a complaint having been filed against him or her*
8 *or by written notice having been mailed to him or her that he or*
9 *she is under criminal investigation.*

10 *(2) A court proceeding has already been initiated.*

11 *(d) Participants in the specially constructed or replica vehicle*
12 *registration amnesty program shall do all of the following:*

13 *(1) File a completed amnesty application with the department,*
14 *signed under penalty of perjury.*

15 *(2) On or before October 1, 2006, do all of the following:*

16 *(A) Apply to register the vehicle as a specially constructed or*
17 *replica vehicle or obtain a certificate of ownership without*
18 *registration pursuant to Section 4452.*

19 *(B) Disclose to the department the true cost of the vehicle,*
20 *including parts and labor.*

21 *(C) Pay in full the fees, taxes, penalties, and interest due for*
22 *all periods for which amnesty is requested, or apply for an*
23 *installment agreement under subdivision (f).*

24 *(e) The department shall impose a minimum application fee of*
25 *five hundred dollars (\$500) for participation in the registration*
26 *amnesty program, regardless of the amount of previous taxes or*
27 *fees avoided.*

28 *(f) The department may enter into an installment payment*
29 *agreement in lieu of the complete payment required under*
30 *subparagraph (C) of paragraph (2) of subdivision (d), but only if*
31 *final payment under the terms of that installment payment*
32 *agreement is due and is paid no later than June 30, 2008. The*
33 *installment payment agreement shall include interest on the*
34 *outstanding amount due at the rate prescribed by law. Unless the*
35 *department determines that the failure was due to reasonable*
36 *causes, failure by the vehicle owner to fully comply with the*
37 *terms of the installment payment agreement shall render the*
38 *waiver of criminal penalties null and void, and the total amount*
39 *of fees, tax, interest, and all penalties shall be immediately due*
40 *and payable.*

1 (g) *The department shall publicize the specially constructed*
2 *and replica vehicle registration amnesty program so as to*
3 *maximize public awareness of, and participation in, the program.*

4 SEC. 4. *Section 4152.5 of the Vehicle Code is amended to*
5 *read:*

6 4152.5. (a) *Except as provided for in subdivision (c) of*
7 *Section 9553, when California registration is required of a*
8 *vehicle last registered in a foreign jurisdiction, an application for*
9 *registration shall be made to the department within 20 days*
10 *following the date registration became due. The application shall*
11 *be deemed an original application.*

12 (b) *If an application is made to the department to register a*
13 *vehicle that complies with the safety and equipment requirements*
14 *of this code and was last registered in a foreign jurisdiction, the*
15 *department shall make an initial inspection of the vehicle to*
16 *determine its proper identity, including, but not limited to,*
17 *determining the validity of the vehicle identification number, and*
18 *shall determine the validity of the previous registration. Upon*
19 *completion of the initial inspection, the department may require*
20 *the owner of the vehicle to present the vehicle at an authorized*
21 *facility of the Department of the California Highway Patrol for*
22 *an additional inspection. The department shall develop*
23 *regulations for determining which vehicles are required to be*
24 *referred to the Department of the California Highway Patrol*
25 *under this subdivision. These regulations shall be developed in*
26 *consultation with the Department of the California Highway*
27 *Patrol and the Office of the California Attorney General.*

28 (c) *The Department of the California Highway Patrol shall*
29 *inspect those vehicles described in subdivision (b) that have been*
30 *referred by the department to determine the proper origin and*
31 *identity of those vehicles. The inspection conducted pursuant to*
32 *this subdivision shall be a comprehensive inspection.*

33 (d) *The owner or other person in possession of a vehicle*
34 *described in subdivision (b) shall make available, upon request*
35 *of the Department of the California Highway Patrol, a bill of*
36 *sale, invoice, or other acceptable proof of vehicle ownership,*
37 *including, but not limited to, evidence of the origin of any*
38 *component parts. The bill of sale or invoice shall include the*
39 *name of the person from whom the component parts were*
40 *acquired, and that person's address and telephone number.*

(e) The department shall not complete the titling and registration of any vehicle described in subdivision (b) until the owner has complied with the inspection requirements of this section.

SEC. 5. Section 4153 of the Vehicle Code is amended to read:

4153. (a) If the vehicle to be registered is a specially constructed vehicle, replica vehicle, or remanufactured vehicle, or has been reported to the department as, or is suspected by the department to be, a specially constructed vehicle, replica vehicle, or remanufactured vehicle, the application shall also state that fact and contain additional information as may reasonably be required by the department to enable it to properly to register the vehicle.

(b) If an application is made to the department to register a vehicle described in subdivision (a) that complies with the safety and equipment requirements of this code, the department shall make an initial inspection of the vehicle to determine its proper identity. Upon completion of the initial inspection, the department may require the owner of the vehicle to present the vehicle at an authorized facility of the Department of the California Highway Patrol for an additional inspection. The department shall develop regulations for determining which vehicles are required to be referred to the Department of the California Highway Patrol under this subdivision. These regulations shall be developed in consultation with the Department of the California Highway Patrol and the Office of the California Attorney General.

(c) The Department of the California Highway Patrol shall inspect those vehicles described in subdivision (a) that have been referred by the department to determine the proper origin and identity of those vehicles. The inspection conducted pursuant to this subdivision shall be a comprehensive inspection. In the case of a replica vehicle, the inspection shall include a determination that the vehicle is equipped with a supplemental restraint system that is in good working order, conforms to any applicable federal motor vehicle safety standards, and meets or exceeds the manufacturer's specifications for the year the vehicle replicates.

(d) The owner or other person in possession of a vehicle described in subdivision (b) shall make available, upon request of the Department of the California Highway Patrol, a bill of

1 *sale, invoice, or other acceptable proof of vehicle ownership,*
2 *including, but not limited to, evidence of the origin of any*
3 *component parts. The bill of sale or invoice shall include the*
4 *name of the person from whom the component parts were*
5 *acquired, and that person's address and telephone number.*

6 *(e) The department shall not complete the titling and*
7 *registration of any vehicle described in subdivision (a) until the*
8 *owner has complied with the inspection requirements of this*
9 *section.*

10 SEC. 6. *Section 4451 of the Vehicle Code is amended to read:*
11 4451. The certificate of ownership shall contain all of the
12 following:

13 (a) Not less than the information required upon the face of the
14 registration card.

15 (b) Provision for notice to the department of a transfer of the
16 title or interest of the owner or legal owner.

17 (c) Provision for application for transfer of registration by the
18 transferee.

19 (d) Provision for an odometer disclosure statement pursuant to
20 subsection (a) of Section 32705 of Title 49 of the United States
21 Code.

22 *(e) Identification of a replica vehicle with the letters*
23 *"RPLCA" in a space preceding the make of the vehicle.*

24 SEC. 7. *Section 4750.1 of the Vehicle Code is amended to*
25 *read:*

26 4750.1. (a) If the department receives an application for
27 registration of a specially constructed passenger vehicle or
28 pickup truck *or a replica vehicle* after it has registered 500
29 specially constructed vehicles *or replica vehicles* during that
30 calendar year pursuant to Section 44017.4 of the Health and
31 Safety Code, and the vehicle has not been previously registered,
32 the vehicle shall be assigned the same model-year as the calendar
33 year in which the application is submitted, for purposes of
34 determining emissions control equipment and inspection
35 requirements for the vehicle.

36 (b) If the department receives an application for registration of
37 a specially constructed passenger vehicle or pickup truck *or*
38 *replica vehicle* that has been previously registered after it has
39 registered 500 specially constructed vehicles *or replica vehicles*
40 during that calendar year pursuant to Section 44017.4 of the

Health and Safety Code, and the application requests a model-year determination different from the model-year assigned in the previous registration, the application for registration shall be denied and the vehicle owner is subject to the emission control and inspection requirements applicable to the model-year assigned in the previous registration. However, a denial of an application for registration issued pursuant to this subdivision does not preclude the vehicle owner from applying for a different model-year determination and application for registration under Section 44017.4 of the Health and Safety Code in a subsequent calendar year.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

~~299. (a) A person whose DNA profile has been included in the data bank pursuant to this chapter shall have his or her DNA specimen and sample destroyed and searchable database profile expunged from the data bank program pursuant to the procedures set forth in subdivision (b), if the person has no past or present offense or pending charge which qualifies that person for inclusion within the state's DNA and Forensic Identification Database and Data Bank Program and there otherwise is no legal basis for retaining the specimen or sample or searchable profile.~~

~~(b) Pursuant to subdivision (a), a person who has no past or present qualifying offense, and for whom there otherwise is no legal basis for retaining the specimen or sample or searchable profile, may make a written request to have his or her specimen and sample destroyed and searchable database profile expunged from the data bank program, if any of the following requirements is satisfied:~~

~~(1) Following arrest, no accusatory pleading has been filed within the applicable period allowed by law charging the person with a qualifying offense as set forth in subdivision (a) of Section 296 or if the charges which served as the basis for including the~~

~~DNA profile in the state's DNA Database and Data Bank Identification Program have been dismissed prior to adjudication by a trier of fact.~~

~~(2) The underlying conviction or disposition serving as the basis for including the DNA profile has been reversed and the case dismissed.~~

~~(3) The person has been found factually innocent of the underlying offense pursuant to Section 851.8, or Section 781.5 of the Welfare and Institutions Code.~~

~~(4) The defendant has been found not guilty or the defendant has been acquitted of the underlying offense.~~

~~(c) (1) The person requesting the data bank entry to be expunged must send a copy of his or her request to the trial court of the county where the arrest occurred, or that entered the conviction or rendered disposition in the case, to the DNA Laboratory of the Department of Justice, and to the prosecuting attorney of the county in which he or she was arrested or, convicted, or adjudicated, with proof of service on all parties. The court has the discretion to grant or deny the request for expungement. The denial of a request for expungement is a nonappealable order and shall not be reviewed by petition for writ.~~

~~(2) Except as provided below, the Department of Justice shall destroy a specimen and sample and expunge the searchable DNA database profile pertaining to the person who has no present or past qualifying offense of record upon receipt of a court order that verifies the applicant has made the necessary showing at a noticed hearing, and that includes all of the following:~~

~~(A) The written request for expungement pursuant to this section.~~

~~(B) A certified copy of the court order reversing and dismissing the conviction or case, or a letter from the district attorney certifying that no accusatory pleading has been filed or the charges which served as the basis for collecting a DNA specimen and sample have been dismissed prior to adjudication by a trier of fact, the defendant has been found factually innocent, the defendant has been found not guilty, the defendant has been acquitted of the underlying offense, or the underlying conviction has been reversed and the case dismissed.~~

1 ~~(C) Proof of written notice to the prosecuting attorney and the~~
2 ~~Department of Justice that expungement has been requested.~~

3 ~~(D) A court order verifying that no retrial or appeal of the case~~
4 ~~is pending, that it has been at least 180 days since the defendant~~
5 ~~or minor has notified the prosecuting attorney and the~~
6 ~~Department of Justice of the expungement request, and that the~~
7 ~~court has not received an objection from the Department of~~
8 ~~Justice or the prosecuting attorney.~~

9 ~~(d) (1) Upon order from the court, the Department of Justice~~
10 ~~shall destroy any specimen or sample collected from the person~~
11 ~~and any searchable DNA database profile pertaining to the~~
12 ~~person, unless the department determines that the person is~~
13 ~~subject to the provisions of this chapter because of a past~~
14 ~~qualifying offense of record or is or has otherwise become~~
15 ~~obligated to submit a blood specimen or buccal swab sample as a~~
16 ~~result of a separate arrest, conviction, juvenile adjudication, or~~
17 ~~finding of guilty or not guilty by reason of insanity for an offense~~
18 ~~described in subdivision (a) of Section 296, or as a condition of a~~
19 ~~plea.~~

20 ~~(2) The Department of Justice is not required to destroy~~
21 ~~analytical data or other items obtained from a blood specimen or~~
22 ~~saliva, or buccal swab sample, if evidence relating to another~~
23 ~~person subject to the provisions of this chapter would thereby be~~
24 ~~destroyed or otherwise compromised.~~

25 ~~(3) Any identification, warrant, probable cause to arrest, or~~
26 ~~arrest based upon a data bank or database match is not~~
27 ~~invalidated due to a failure to expunge or a delay in expunging~~
28 ~~records.~~

29 ~~(e) Notwithstanding any other provision of law, the~~
30 ~~Department of Justice DNA Laboratory is not required to~~
31 ~~expunge DNA profile or forensic identification information or~~
32 ~~destroy or return specimens, samples, or print impressions taken~~
33 ~~pursuant to this section if the duty to register under Section 290~~
34 ~~or 457.1 is terminated.~~

35 ~~(f) Notwithstanding any other provision of law, including~~
36 ~~Sections 17, 1203.4, and 1203.4a, a judge is not authorized to~~
37 ~~relieve a person of the separate administrative duty to provide~~
38 ~~specimens, samples, or print impressions required by this chapter~~
39 ~~if a person has been found guilty or was adjudicated a ward of~~
40 ~~the court by a trier of fact of a qualifying offense as defined in~~

- 1 ~~subdivision (a) of Section 296, or was found not guilty by reason~~
- 2 ~~of insanity or pleads no contest to a qualifying offense as defined~~
- 3 ~~in subdivision (a) of Section 296.~~

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